

South Australia



ANNO QUINQUAGESIMO
ELIZABETHAE II REGINAE
A.D. 2001

**STATUTES AMENDMENT (AVOIDANCE OF DUPLICATION OF
ENVIRONMENTAL PROCEDURES) ACT 2001**

No. 16 of 2001

[Assented to 17 May 2001]

An Act to amend the Development Act 1993, the Environment Protection Act 1993, the Mining Act 1971, the Native Vegetation Act 1991, the Petroleum Act 2000 and the Water Resources Act 1997.

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The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Statutes Amendment (Avoidance of Duplication of Environmental Procedures) Act 2001*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation

3. A reference in this Act to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

**PART 2
AMENDMENT OF DEVELOPMENT ACT 1993**

Insertion of s. 52A

4. The following section is inserted after section 52 of the principal Act:

Avoidance of duplication of procedures etc.

52A. (1) The purpose of this section is to provide for the avoidance of unnecessary duplication of procedures and compliance requirements under the Commonwealth Act and this Act where an activity requires development authorisation under this Act and approval under the Commonwealth Act.

(2) Despite any other provision of this Act, the Governor, the Minister, the Development Assessment Commission, the Major Developments Panel, a council or other authority under this Act may—

- (a) accept a Commonwealth Act document as an application, notice or other document for the purposes of this Act if (subject to subsection (7)) the document complies with the requirements of this Act; and
- (b) direct that a procedure taken under the Commonwealth Act in relation to a Commonwealth Act document that has been accepted by the authority under paragraph (a) will be taken to have fulfilled the requirement for a procedure in relation to the relevant document under this Act if the requirements of this Act in relation to the procedure have been complied with; and
- (c) instead of the authority, or some other person, preparing a plan, report, statement, assessment or other document under this Act, adopt or accept the whole or part of a document (whether a plan, report, statement, assessment or other document of the same kind or not) used, or to be used, for the purposes of the Commonwealth Act as the document required under this Act if (subject to subsection (7)) the document has been prepared in compliance with this Act and complies with the requirements of this Act.

(3) Instead of preparing the document referred to in section 46(8)(a), the Major Developments Panel may adopt a document, or part of a document, used, or to be used, for the purposes of the Commonwealth Act if, subject to subsection (7), the document, or the relevant part of it, complies with the requirements of this Act.

(4) When preparing an Assessment Report as required by section 46B(9), 46C(9) or 46D(8), the Minister may include in the Report the whole or part of an assessment report (as defined in subsection (9)) if, subject to subsection (7), the assessment report, or the relevant part of it, complies with the requirements of this Act.

(5) To avoid doubt, where a controlled action under the Commonwealth Act is an activity or part of an activity, or includes an activity, for which a development authorisation is required under this Act, the authority may, when considering an application for a development authorisation, or for the variation of a development authorisation, for the activity, use information and other material provided to the Commonwealth Minister under the Commonwealth Act for the purpose of deciding whether to give his or her approval to the controlled action under that Act.

(6) Where a controlled action under the Commonwealth Act is an activity or part of an activity, or includes an activity, for which a development authorisation is required under this Act, the authority—

(a) must, if—

- (i) the Commonwealth Minister has given his or her approval to the controlled action; and
- (ii) the applicant for the development authorisation or the Commonwealth Minister has informed the authority of that fact,

consider whether the conditions (if any) to be attached to the development authorisation should be consistent with the conditions (if any) attached to the Commonwealth Minister's approval under the Commonwealth Act;

(b) may attach a condition to the development authorisation that requires compliance with all or some of the conditions attached to the Commonwealth Minister's approval under the Commonwealth Act.

(7) A document accepted or adopted under this section—

- (a) may be in a form that does not comply with the requirements of this Act; and
- (b) may include information or other material that is irrelevant for the purposes of this Act.

(8) Once a document is accepted or adopted under this section or a direction has been given in relation to a procedure under subsection (2)(b), the document or procedure will not be invalid or ineffective for the purposes of this Act because a court, tribunal or other authority has decided that it is invalid or ineffective for the purposes of the Commonwealth Act.

(9) In this section—

"assessment report" means—

- (a) an assessment report as defined in the Commonwealth Act by reference to section 84(3), 95, 100 or 105 of that Act; or
- (b) a report under section 121 of the Commonwealth Act;

"the authority" means the Governor, the Minister, the Development Assessment Commission, the Major Developments Panel, a council or other authority under this Act or an authority to which a proposed development has been referred under this Act;

"Commonwealth Act" means the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth;

"Commonwealth Act document" means—

- (a) a referral under section 68, 69 or 71 of the Commonwealth Act; or
- (b) information given by a person to the Minister under the Commonwealth Act under section 86 of that Act; or
- (c) information and invitation published by a proponent under section 93 of the Commonwealth Act; or
- (d) guidelines prepared under section 97 or 102 of the Commonwealth Act; or
- (e) a draft report prepared under section 98 of the Commonwealth Act; or
- (f) a finalised report prepared under section 99 of the Commonwealth Act; or
- (g) a draft statement prepared under section 103 of the Commonwealth; or
- (h) a finalised statement prepared under section 104 of the Commonwealth Act;
- (i) an assessment report.

PART 3
AMENDMENT OF ENVIRONMENT PROTECTION ACT 1993

Insertion of s. 50A

5. The following section is inserted in Division 4 of Part 6 after section 50 of the principal Act:

Avoidance of duplication of procedures etc.

50A. (1) The purpose of this section is to provide for the avoidance of unnecessary duplication of procedures and compliance requirements under the Commonwealth Act and this Act where an activity requires environmental authorisation under this Act and approval under the Commonwealth Act.

(2) Despite any other provision of this Act, the Authority may—

- (a) accept a Commonwealth Act document as an application, notice or other document for the purposes of this Act if (subject to subsection (5)) the document complies with the requirements of this Act; and
- (b) direct that a procedure taken under the Commonwealth Act in relation to a Commonwealth Act document that has been accepted by the Authority under paragraph (a) will be taken to have fulfilled the requirement for a procedure in relation to the relevant document under this Act if the requirements of this Act in relation to the procedure have been complied with; and
- (c) instead of the Authority, or some other person, preparing a plan, report, statement, assessment or other document under this Act, adopt or accept the whole or part of a document (whether a plan, report, statement, assessment or other document of the same kind or not) used, or to be used, for the purposes of the Commonwealth Act as the document required under this Act if (subject to subsection (5)) the document has been prepared in compliance with this Act and complies with the requirements of this Act.

(3) To avoid doubt, where a controlled action under the Commonwealth Act is an activity or part of an activity, or includes an activity, for which an environmental authorisation is required under this Act, the Authority may, when considering an application for an environmental authorisation, or for the variation of an environmental authorisation, for the activity, use information and other material provided to the Commonwealth Minister under the Commonwealth Act for the purpose of deciding whether to give his or her approval to the controlled action under that Act.

(4) Where a controlled action under the Commonwealth Act is an activity or part of an activity, or includes an activity, for which an environmental authorisation is required under this Act, the Authority—

- (a) must, if the Commonwealth Minister has given his or her approval to the controlled action, consider whether the conditions (if any) to be imposed on the authorisation should be consistent with the conditions (if any) attached to the Commonwealth Minister's approval under the Commonwealth Act;

- (b) may impose a condition on the authorisation that requires compliance with all or some of the conditions attached to the Commonwealth Minister's approval under the Commonwealth Act.

(5) A document accepted or adopted under subsection (2)—

- (a) may be in a form that does not comply with the requirements of this Act; and
- (b) may include information or other material that is irrelevant for the purposes of this Act.

(6) Once a document is accepted or adopted under subsection (2) or a direction has been given in relation to a procedure under subsection (2)(b), the document or procedure will not be invalid or ineffective for the purposes of this Act because a court, tribunal or other authority has decided that it is invalid or ineffective for the purposes of the Commonwealth Act.

(7) In this section—

"assessment report" means—

- (a) an assessment report as defined in the Commonwealth Act by reference to section 84(3), 95, 100 or 105 of that Act; or
- (b) a report under section 121 of the Commonwealth Act;

"Commonwealth Act" means the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth;

"Commonwealth Act document" means—

- (a) a referral under section 68, 69 or 71 of the Commonwealth Act; or
- (b) information given by a person to the Minister under the Commonwealth Act under section 86 of that Act; or
- (c) information and invitation published by a proponent under section 93 of the Commonwealth Act; or
- (d) guidelines prepared under section 97 or 102 of the Commonwealth Act; or
- (e) a draft report prepared under section 98 of the Commonwealth Act; or
- (f) a finalised report prepared under section 99 of the Commonwealth Act; or
- (g) a draft statement prepared under section 103 of the Commonwealth Act; or

- (h) a finalised statement prepared under section 104 of the Commonwealth Act;
- (i) an assessment report.

**PART 4
AMENDMENT OF MINING ACT 1971**

Insertion of s. 79A

6. The following section is inserted after section 79 of the principal Act:

Avoidance of duplication of procedures etc.

79A. (1) The purpose of this section is to provide for the avoidance of unnecessary duplication of procedures and compliance requirements under the Commonwealth Act and this Act where an activity requires authorisation under this Act and approval under the Commonwealth Act.

(2) Despite any other provision of this Act, the Minister or the Director of Mines may—

- (a) accept a Commonwealth Act document as an application, notice or other document for the purposes of this Act if (subject to subsection (5)) the document complies with the requirements of this Act; and
- (b) direct that a procedure taken under the Commonwealth Act in relation to a Commonwealth Act document that has been accepted by the Minister or Director under paragraph (a) will be taken to have fulfilled the requirement for a procedure in relation to the relevant document under this Act if the requirements of this Act in relation to the procedure have been complied with; and
- (c) instead of himself or herself, or some other person, preparing a plan, report, statement, assessment or other document under this Act, adopt or accept the whole or part of a document (whether a plan, report, statement, assessment or other document of the same kind or not) used, or to be used, for the purposes of the Commonwealth Act as the document required under this Act if (subject to subsection (5)) the document has been prepared in compliance with this Act and complies with the requirements of this Act.

(3) To avoid doubt, where a controlled action under the Commonwealth Act is an activity or part of an activity, or includes an activity, for which authorisation is required under this Act, the Minister or Director may, when considering an application for a mining tenement or other authorisation for the activity, use information and other material provided to the Commonwealth Minister under the Commonwealth Act for the purpose of deciding whether to give his or her approval to the controlled action under that Act.

(4) Where a controlled action under the Commonwealth Act is an activity or part of an activity, or includes an activity, for which authorisation is required under this Act, the Minister or Director—

- (a) must, if the Commonwealth Minister has given his or her approval to the controlled action, consider whether the conditions (if any) to be attached by the Minister or Director to the mining tenement or other authorisation should be consistent with the conditions (if any) attached to the Commonwealth Minister's approval under the Commonwealth Act;
- (b) may attach a condition to the mining tenement or other authorisation that requires compliance with all or some of the conditions attached to the Commonwealth Minister's approval under the Commonwealth Act.

(5) A document accepted or adopted under subsection (2)—

- (a) may be in a form that does not comply with the requirements of this Act; and
- (b) may include information or other material that is irrelevant for the purposes of this Act.

(6) Once a document is accepted or adopted under subsection (2) or a direction has been given in relation to a procedure under subsection (2)(b), the document or procedure will not be invalid or ineffective for the purposes of this Act because a court, tribunal or other authority has decided that it is invalid or ineffective for the purposes of the Commonwealth Act.

(7) In this section—

"assessment report" means—

- (a) an assessment report as defined in the Commonwealth Act by reference to section 84(3), 95, 100 or 105 of that Act; or
- (b) a report under section 121 of the Commonwealth Act;

"Commonwealth Act" means the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth;

"Commonwealth Act document" means—

- (a) a referral under section 68, 69 or 71 of the Commonwealth Act; or
- (b) information given by a person to the Minister under the Commonwealth Act under section 86 of that Act; or
- (c) information and invitation published by a proponent under section 93 of the Commonwealth Act; or
- (d) guidelines prepared under section 97 or 102 of the Commonwealth Act; or

- (e) a draft report prepared under section 98 of the Commonwealth Act;
or
- (f) a finalised report prepared under section 99 of the Commonwealth
Act; or
- (g) a draft statement prepared under section 103 of the Commonwealth
Act; or
- (h) a finalised statement prepared under section 104 of the
Commonwealth Act;
- (i) an assessment report.

**PART 5
AMENDMENT OF NATIVE VEGETATION ACT 1991**

Insertion of s. 29A

7. The following section is inserted after section 29 of the principal Act:

Avoidance of duplication of procedures etc.

29A. (1) The purpose of this section is to provide for the avoidance of unnecessary duplication of procedures and compliance requirements under the Commonwealth Act and this Act where the clearance of native vegetation requires consent under this Act and approval under the Commonwealth Act.

(2) Despite any other provision of this Act, the Council may—

- (a) accept a Commonwealth Act document as an application for consent under section 28 if (subject to subsection (5)) it complies with the requirements of this Act; and
- (b) accept the whole or part of a plan, report, statement, assessment or other document used, or to be used, for the purposes of the Commonwealth Act as a native vegetation management plan referred to in section 28(3)(b)(i) if (subject to subsection (5)) the document has been prepared in compliance with this Act and complies with the requirements of this Act.

(3) To avoid doubt, where a controlled action under the Commonwealth Act comprises or includes the clearance of native vegetation, the Council may, when considering an application for consent to clear the native vegetation use information and other material provided to the Commonwealth Minister under the Commonwealth Act for the purpose of deciding whether to give his or her approval to the controlled action under that Act.

(4) Where a controlled action under the Commonwealth Act comprises or includes the clearance of native vegetation, the Council—

- (a) must, if the Commonwealth Minister has given his or her approval to the controlled action, consider whether the conditions (if any) to be imposed on the consent should be consistent with the conditions (if any) attached to the Commonwealth Minister's approval under the Commonwealth Act;

- (b) may impose a condition on the consent that requires compliance with all or some of the conditions attached to the Commonwealth Minister's approval under the Commonwealth Act.

(5) A document accepted under subsection (2)—

- (a) may be in a form that does not comply with the requirements of this Act; and
- (b) may include information or other material that is irrelevant for the purposes of this Act.

(6) Once a document is accepted under subsection (2) the document will not be invalid or ineffective for the purposes of this Act because a court, tribunal or other authority has decided that it is invalid or ineffective for the purposes of the Commonwealth Act.

(7) In this section—

"assessment report" means—

- (a) an assessment report as defined in the Commonwealth Act by reference to section 84(3), 95, 100 or 105 of that Act; or
- (b) a report under section 121 of the Commonwealth Act;

"Commonwealth Act" means the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth;

"Commonwealth Act document" means—

- (a) a referral under section 68, 69 or 71 of the Commonwealth Act; or
- (b) information given by a person to the Minister under the Commonwealth Act under section 86 of that Act; or
- (c) information and invitation published by a proponent under section 93 of the Commonwealth Act; or
- (d) guidelines prepared under section 97 or 102 of the Commonwealth Act; or
- (e) a draft report prepared under section 98 of the Commonwealth Act; or
- (f) a finalised report prepared under section 99 of the Commonwealth Act; or
- (g) a draft statement prepared under section 103 of the Commonwealth Act; or

- (h) a finalised statement prepared under section 104 of the Commonwealth Act;
- (i) an assessment report.

PART 6
AMENDMENT OF PETROLEUM ACT 2000

Insertion of s. 130A

8. The following section is inserted after section 130 of the principal Act:

Avoidance of duplication of procedures etc.

130A. (1) The purpose of this section is to provide for the avoidance of unnecessary duplication of procedures and compliance requirements under the Commonwealth Act and this Act where an activity requires authorisation under this Act and approval under the Commonwealth Act.

(2) Despite any other provision of this Act, the Minister may—

- (a) accept a Commonwealth Act document as an application, notice or other document for the purposes of this Act if (subject to subsection (5)) the document complies with the requirements of this Act; and
- (b) direct that a procedure taken under the Commonwealth Act in relation to a Commonwealth Act document that has been accepted by the Minister under paragraph (a) will be taken to have fulfilled the requirement for a procedure in relation to the relevant document under this Act if the requirements of this Act in relation to the procedure have been complied with; and
- (c) instead of the Minister, or some other person, preparing a plan, report, statement, assessment or other document under this Act, adopt or accept the whole or part of a document (whether a plan, report, statement, assessment or other document of the same kind or not) used, or to be used, for the purposes of the Commonwealth Act as the document required under this Act if (subject to subsection (5)) the document has been prepared in compliance with this Act and complies with the requirements of this Act.

(3) To avoid doubt, where a controlled action under the Commonwealth Act is an activity or part of an activity, or includes an activity, for which a licence is required under this Act, the Minister, when considering—

- (a) an application for a licence for the activity; or
- (b) whether to give written approval for activities pursuant to a licence requiring high level official supervision; or
- (c) whether to approve a statement (or revised statement) of environmental objectives,

may use information and other material provided to the Commonwealth Minister under the Commonwealth Act for the purpose of deciding whether to give his or her approval to the controlled action under that Act.

(4) Where a controlled action under the Commonwealth Act is an activity or part of an activity, or includes an activity, for which a licence is required under this Act, the Minister—

(a) must, if the Commonwealth Minister has given his or her approval to the controlled action, consider whether—

- (i) the discretionary conditions (if any) to be attached to the licence; or
- (ii) the conditions or requirements of the statement or revised statement of environmental objectives approved by the Minister in relation to the activity authorised by the licence,

should be consistent with the conditions (if any) attached to the Commonwealth Minister's approval under the Commonwealth Act;

(b) may determine that—

- (i) the licence will be subject to a condition; or
- (ii) a statement or revised statement of environmental objectives approved by the Minister in relation to the activity authorised by the licence should include a condition or requirement,

requiring compliance with all or some of the conditions attached to the Commonwealth Minister's approval under the Commonwealth Act.

(5) A document accepted or adopted under subsection (2)—

- (a) may be in a form that does not comply with the requirements of this Act; and
- (b) may include information or other material that is irrelevant for the purposes of this Act.

(6) Once a document is accepted or adopted under subsection (2) or a direction has been given in relation to a procedure under subsection (2)(b), the document or procedure will not be invalid or ineffective for the purposes of this Act because a court, tribunal or other authority has decided that it is invalid or ineffective for the purposes of the Commonwealth Act.

(7) In this section—

"assessment report" means—

- (a) an assessment report as defined in the Commonwealth Act by reference to section 84(3), 95, 100 or 105 of that Act; or
- (b) a report under section 121 of the Commonwealth Act;

"Commonwealth Act" means the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth;

"Commonwealth Act document" means—

- (a) a referral under section 68, 69 or 71 of the Commonwealth Act; or
- (b) information given by a person to the Minister under the Commonwealth Act under section 86 of that Act; or
- (c) information and invitation published by a proponent under section 93 of the Commonwealth Act; or
- (d) guidelines prepared under section 97 or 102 of the Commonwealth Act; or
- (e) a draft report prepared under section 98 of the Commonwealth Act; or
- (f) a finalised report prepared under section 99 of the Commonwealth Act; or
- (g) a draft statement prepared under section 103 of the Commonwealth Act; or
- (h) a finalised statement prepared under section 104 of the Commonwealth Act;
- (i) an assessment report.

PART 7

AMENDMENT OF WATER RESOURCES ACT 1997

Insertion of s. 144A

9. The following section is inserted after section 144 of the principal Act:

Avoidance of duplication of procedures etc.

144A. (1) The purpose of this section is to provide for the avoidance of unnecessary duplication of procedures and compliance requirements under the Commonwealth Act and this Act where an activity requires authorisation under this Act and approval under the Commonwealth Act.

(2) Despite any other provision of this Act, an authority under this Act may—

- (a) accept a Commonwealth Act document as an application, notice or other document for the purposes of this Act if (subject to subsection (5)) the document complies with the requirements of this Act; and
- (b) direct that a procedure taken under the Commonwealth Act in relation to a Commonwealth Act document that has been accepted by the authority under paragraph (a) will be taken to have fulfilled the requirement for a procedure in relation to the relevant document under this Act if the requirements of this Act in relation to the procedure have been complied with; and

- (c) instead of the authority, or some other person, preparing a plan, report, statement, assessment or other document under this Act, adopt or accept the whole or part of a document (whether a plan, report, statement, assessment or other document of the same kind or not) used, or to be used, for the purposes of the Commonwealth Act as the document required under this Act if (subject to subsection (5)) the document has been prepared in compliance with this Act and complies with the requirements of this Act.

(3) To avoid doubt, where a controlled action under the Commonwealth Act is an activity or part of an activity, or includes an activity, for which authorisation is required under this Act, the authority may, when considering an application for, or for the variation of a water licence or a permit, use information and other material provided to the Commonwealth Minister under the Commonwealth Act for the purpose of deciding whether to give his or her approval to the controlled action under that Act.

(4) Where a controlled action under the Commonwealth Act is an activity or part of an activity, or includes an activity, for which authorisation is required under this Act, the authority—

- (a) must, if the Commonwealth Minister has given his or her approval to the controlled action, consider whether the conditions (if any) to be attached to the licence or permit should be consistent with the conditions (if any) attached to the Commonwealth Minister's approval under the Commonwealth Act;
- (b) may attach a condition to a licence or permit that requires compliance with all or some of the conditions attached to the Commonwealth Minister's approval under the Commonwealth Act.

(5) A document accepted or adopted under subsection (2)—

- (a) may be in a form that does not comply with the requirements of this Act; and
- (b) may include information or other material that is irrelevant for the purposes of this Act.

(6) Once a document is accepted or adopted under subsection (2) or a direction has been given in relation to a procedure under subsection (2)(b), the document or procedure will not be invalid or ineffective for the purposes of this Act because a court, tribunal or other authority has decided that it is invalid or ineffective for the purposes of the Commonwealth Act.

(7) In this section—

"assessment report" means—

- (a) an assessment report as defined in the Commonwealth Act by reference to section 84(3), 95, 100 or 105 of that Act; or
- (b) a report under section 121 of the Commonwealth Act;

"the authority" means—

- (a) in reference to a water licence—the Minister;
- (b) in reference to a permit—the relevant authority under section 10;

"Commonwealth Act" means the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth;

"Commonwealth Act document" means—

- (a) a referral under section 68, 69 or 71 of the Commonwealth Act; or
- (b) information given by a person to the Minister under the Commonwealth Act under section 86 of that Act; or
- (c) information and invitation published by a proponent under section 93 of the Commonwealth Act; or
- (d) guidelines prepared under section 97 or 102 of the Commonwealth Act; or
- (e) a draft report prepared under section 98 of the Commonwealth Act; or
- (f) a finalised report prepared under section 99 of the Commonwealth Act; or
- (g) a draft statement prepared under section 103 of the Commonwealth Act; or
- (h) a finalised statement prepared under section 104 of the Commonwealth Act;
- (i) an assessment report.